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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,762	01/19/2002	Stephen R. Okros		4207

7590 06/09/2005

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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT PAPER NUMBER

1761

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,762

Applicant(s)

OKROS, STEPHEN R.

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 17, 20, 21, 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson ('458), in view of Wexler ('688), Wexler ('966) and Fuschetto ('274), further in view of Zefran ('119) and Stewart ('698), essentially for the reasons given in the Office action mailed 5/18/04.

Claim 16 now essentially recites the limitations of canceled claims 1, 2, 3, 4 and 6, and the claims are rejected over the references applied against those claims for the reasons given in the Office action mailed 5/18/04.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 16 above, and further in view of Tarozzi et al ('484) who is relied on for the reasons given in the office action mailed 5/18/04.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 18 alone, or further in view of James ('163), who is applied for the reasons given in the Office action mailed 5/18/04.

It would appear that claim 19 contains an error in that, as disclosed, it is the bottom piece (not the cover portion) that has handle members which function to facilitate the lifting and lowering of the assembly. In any case, the claim will be construed both ways (i.e., cover portion or handle portion) with Tarozzi et al teaching

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the cover portion having a handle member and James teaching the bottom portion having a handle member.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 16 above, and further in view of Casalta Dominique (FRE '274) for the reasons given in the Office action mailed 5/18/04.

Claims 16-24 are rejected under 35 USC 112, first paragraph for the reasons given in the Office action mailed 5/18/04.

All of applicant's remarks filed 3/17/05 have been fully and carefully considered but are not found to be convincing. The urgings argue each reference separately as if they were applied alone in a vacuum. The rejection is not based on a single reference under 35 USC 102, anticipation. Instead, the rejection is based on a combination of references (i.e., the art taken as a whole) under 35 USC 103, obviousness. Note, too, applicant is urging limitations not found in the claims. For example, as claimed, the claims do not recite that there are one hundred apertures. Rather, the claims recite that the number of apertures fall within the range. In any case, as noted previously, once it was known to provide apertures, the number of apertures one chooses to provide is seen to have been an obvious matter of choice. Also, the type of message and the inclusion of the message with the assembly has been previously addressed as well. Indicia is indicia, and what message one chooses to convey in the indicia is seen to have been an obvious matter of choice which cannot be used to predicate patentability. Finally, as with other urgings made that do not take into account the art, taken as a whole, the urging that Carlson does not teach a "message slot" is not convincing of

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patentability. Carlson does not even have to teach a message slot for the rejection to be proper since Fuschetto teaches a slot capable of slidably receiving a message which is all that the claims recite in this regard. As noted previously, once it was conventional to provide a message slot, the particular message one chooses to place in the slot is seen to have been an obvious matter of choice and/or design.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L Weinstein whose telephone number is (571) 272-1410. The examiner can normally be reached on Monday-Friday 6:30am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Weinstein/af
June 6, 2005

Steve Weinstein
STEVE WEINSTEIN
PRIMARY EXAMINER 1761